

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
RAS Citron, LLC 130 Clinton Road, Suite 202 Fairfield, NJ 07004 Telephone Number 973-575-0707 Attorneys for Secured Creditor U.S. Bank National Association Harold Kaplan, Esq. (HK-0226)	CASE NO.: 18-26126-MBK CHAPTER 13 Objection to Confirmation of Debtor's Chapter 13 Plan
In Re: Robert Elliott Shanley, III, Debtor.	

OBJECTION TO CONFIRMATION OF DEBTOR'S CHAPTER 13 PLAN

U.S. Bank National Association ("Secured Creditor"), by and through its undersigned counsel, objects to confirmation of Debtor's Chapter 13 Plan (DE # 17), filed on September 10, 2018, and states as follows:

1. Debtor, Robert Elliott Shanley, III ("Debtor"), filed a voluntary petition pursuant to Chapter 13 of the Bankruptcy Code on August 13, 2018.
2. Secured Creditor holds a claim for the personal property, a 2011 Volvo XC90, Vin: YV4952CZ1B1584885
3. The Plan fails to include treatment of Secured Creditor's claim. Secured Creditor objects to the Plan and seeks clarification as to Debtor's intentions in regard to the personal property and claim.
4. The Plan fails to acknowledge the total debt owed. Secured Creditor anticipates a secured claim amount of \$10,010.80. Accordingly, the Plan does not provide for the full value of Secured Creditor's claim.
5. The Plan fails to provide an interest amount for the claim. In *Till v. SCS Credit Corp.*, 541 U.S. 465, 124 S.Ct. 1951(2004), the U.S. Supreme Court addressed the appropriate cram down interest rate under 11 U.S.C. § 1325(a)(5)(B)(ii). *Till* adopts the "formula

approach,” which looks to the national prime rate, as reported daily in the press, and adds and appropriate “risk adjustment.” Although *Till* does not specify what the risk adjustment should be, it states that courts generally approve adjustments of 1-3%. Accordingly, Secured Creditor maintains that, lacking evidence to the contrary, a risk adjustment of 2% is reasonable.

6. The prime rate, as published in the Wall Street Journal, is currently 5.00%. Accordingly, Secured Creditor maintains the Court should not approve an interest rate less than 7.00%.
7. In the event that the Debtor amends the Plan to include the total debt or in the event the Debtor files a letter indication that the claim shall control (subject to Debtor’s right to object), this objection to confirmation shall be deemed withdrawn.

WHEREFORE, Secured Creditor respectfully requests this Court sustain the objections stated herein and deny confirmation of Debtor’s Plan, and for such other and further relief as the Court may deem just and proper.

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By: /s/Harold Kaplan
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CERTIFICATION OF SERVICE

1. I, Harold Kaplan, represent U.S. Bank National Association in this matter.
2. On 9/28/2018, I caused a copy of the following pleadings and/or documents to be sent to the parties listed in the chart below.
3. I certify under penalty of perjury that the above documents were sent using the mode of service indicated.

9/28/2018

RAS Citron, LLC
Attorney for Secured Creditor
130 Clinton Road, Suite 202
Fairfield, NJ 07004
Telephone Number 973-575-0707

By: /s/Harold Kaplan
Harold Kaplan, Esquire
NJ Bar Number HK-0226
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<u>Name and Address of Party Served</u>	<u>Relationship of Party to the Case</u>	<u>Mode of Service</u>
Joseph Casello Collins, Vella & Casello 2317 Route 34 South Suite 1A Manasquan, NJ 08736	Attorney for Debtor	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)
Robert Elliott Shanley, III PO Box 641 Navesink, NJ 07752	Debtor	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)
Albert Russo Standing Chapter 13 Trustee CN 4853 Trenton, NJ 08650-4853	Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)
US Dept of Justice Office of the US Trustee One Newark Center Ste 2100 Newark, NJ 07102	U.S. Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)